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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,726	10/07/2003	Wiebke Neumann	117163.00093	8281
21324	7590	01/03/2006	EXAMINER	
HAHN LOESER & PARKS, LLP One GOJO Plaza Suite 300 AKRON, OH 44311-1076				GREENE, DANA D
		ART UNIT		PAPER NUMBER
		3762		

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/680,726	NEUMANN ET AL.	
	Examiner Dana D. Greene	Art Unit 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 11 October 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,11,12 and 19-27 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,11,12 and 19-27 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 27 May 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Previously presented claims 1, 11, 12, 19, and 20 remain rejected under the same references disclosed in the Office Action mailed July 18, 2005. Further, new claims 21-27 stand rejected under 35 U.S.C. §102(b) as being anticipated by Somdahl et al. (US 6,445,948 B1, hereinafter “Somdahl”). The Examiner has given full consideration to the Applicant’s response filed on October 11, 2005 and notes the cancellation of claims 2-10 and 13-18. However, Applicant’s arguments and amendments are not persuasive and do not overcome the original rejection.

Examiner has alleged a *prima facie* case of anticipation with respect to claims 1, 11, 12, 19, and 20-27 and Examiner cites Somdahl. The amendment of claim 1 to recite the presence of structures that compensate for discharge-induced swelling of the battery does not overcome the anticipation rejection because Somdahl’s retainer and spaces clearly compensate for the swelling of the battery. Therefore, Somdahl clearly teaches or suggests all of the elements of independent claims 1 and 21.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 11, 12, 19, and 20-27 stand rejected under 35 U.S.C. §102(b) as being anticipated by Somdahl. Somdahl is considered to disclose:

an implant housing (see col. 5, ln. 55-62, Somdahl). The disclosed sealed housing is considered to anticipate the claimed implant housing because both configurations accommodate functional components such as a battery, a circuit, telemetric means and the like;

functional component parts of the implant disposed in said housing, wherein said functional components comprise a circuit, and a battery (see col. 5, ln. 55-62 and col. 6, ln. 5-10, ln. 40-45, Somdahl). The disclosed functional components (battery and circuit) are considered to anticipate the claimed battery and circuit because: (1) the battery is substantially flat which makes it easier for the implant housing to accommodate that functional component and (2) the circuit is disposed in mutually juxtaposed relationship in the implant housing;

the battery has a flat side, an underside and a peripherally extending narrow side, and the battery is arranged with its underside located on an internal base surface of the implant housing and the circuit is arranged in adjacent relationship with a flat side of the battery (see col. 6, ln. 48-59, Somdahl). The disclosed arrangement is considered to anticipate the claimed arrangement because both provide a constant ratio between the battery and circuit. In this connection, the arrangement of the battery and circuit in both Somdahl and the claimed invention affords a gain in area to which components can be fitted, in comparison with a conventional arrangement;

wherein the circuit includes a component carrier, which carries electronic components, and wherein an underside of the component carrier is adjacent to the flat side of the battery (see col. 11, ln. 45-65, Somdahl). The disclosed electronics module

is considered to anticipate the claimed component carrier because both are configured for the placement of electronic components such as circuits, batteries, and the like;

wherein the circuit is fixed to the flat side of the battery; further comprising structures that compensate for discharge-induced swelling of the battery; wherein the structures include free spaces adjacent to the peripherally extending narrow side of the battery (see fig. 3(g) and see col. 15, ln. 20-35, Somdahl). The disclosed retainer is considered to anticipate the claimed structures that compensate for the battery swelling because both prevent any possible mechanical damage that may affect the circuit.

With reference to claims 11 and 22, Somdahl is considered to disclose:

the electromedical implant additionally comprising a mounting element, which engages the circuit (see col. 11, ln. 45-65, Somdahl). The disclosed frame is considered to anticipate the claimed mounting element because both configurations extend outwardly from the circuit board and can be introduced into the implant without a mechanical join to the battery or only at the periphery so that the mechanical stresses which occur as a consequence of the discharge-induced variation in volume cannot be diverted to the circuit.

Regarding claims 12 and 23, Somdahl is considered to disclose:

the battery and circuit stacked one upon the other (see abstract, Somdahl). The disclosed configuration is considered to anticipate the claimed battery and circuit arrangement because both minimize the overall height of the two component parts which are stacked one upon the other ultimately allowing the heightwise profile to be applied to component parts.

With reference to claims 19, 20, 24, and 25, Somdahl is considered to disclose:
the electromedical implant wherein the circuit extends over >about 80% of the flat side of the battery (see col. 42, ln. 48-55, Somdahl). The disclosed circuit and battery placement are considered to anticipate the claimed position of the circuit and battery because both enable the better use of the structural space available in the housing.

Referring to claim 21, Somdahl is considered to disclose:
an implant housing (see col. 5, ln. 55-62, Somdahl). The disclosed sealed housing is considered to anticipate the claimed implant housing because both configurations accommodate functional components such as a battery, a circuit, telemetric means and the like;

functional component parts of the implant disposed in said housing, wherein said functional components comprise a circuit, and a battery (see col. 5, ln. 55-62 and col. 6, ln. 5-10, ln. 40-45, Somdahl). The disclosed functional components (battery and circuit) are considered to anticipate the claimed battery and circuit because: (1) the battery is substantially flat which makes it easier for the implant housing to accommodate that functional component and (2) the circuit is disposed in mutually juxtaposed relationship in the implant housing;

wherein the battery has a flat side, an underside and a peripherally extending narrow side, and the battery is arranged with its underside located on an internal base surface of the implant housing and the circuit is arranged in adjacent relationship with a flat side of the battery (see col. 6, ln. 48-59, Somdahl). The disclosed arrangement is considered to anticipate the claimed arrangement because both provide a constant ratio

between the battery and circuit. In this connection, the arrangement of the battery and circuit in both Somdahl and the claimed invention affords a gain in area to which components can be fitted, in comparison with a conventional arrangement;

wherein the circuit includes a component carrier, which carries electronic components, and wherein an underside of the component carrier is adjacent to the flat side of the battery (see col. 11, ln. 45-65, Somdahl). The disclosed electronics module is considered to anticipate the claimed component carrier because both are configured for the placement of electronic components such as circuits, batteries, and the like;

wherein the circuit is fixed to the flat side of the battery; further comprising structures that compensate for discharge-induced swelling of the battery; wherein the structures include free spaces adjacent to the peripherally extending narrow side of the battery (see fig. 3(g) and see col. 15, ln. 20-35, Somdahl). The disclosed retainer is considered to anticipate the claimed structures that compensate for the battery swelling because both prevent any possible mechanical damage that may affect the circuit.

Referring to claims 26 and 27, Somdahl is considered to disclose:

an electromedical implant, wherein the circuit is attached to the battery by a lead-through duct (see col. 28, ln. 60 – col. 29, ln. 7, Somdahl). The disclosed feedthrough passageway is considered to anticipate the claimed duct because both produce an electrical connection between the battery and the circuit.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3762

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dana D. Greene whose telephone number is (571) 272-7138. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 3762

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dana D. Greene

Dana D. Greene

Angela D. Sykes

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700